



## UNITED STATES PATENT AND TRADEMARK OFFICE

16 MAY 2008

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

KRATZ, QUINTOS & HANSON, LLP  
1420 K Street, N.W.  
Suite 400  
WASHINGTON DC 20005

In re Application of:  
ENDO, Tamia, et al. :  
U.S. Application No.: 10/510,244 :  
PCT No.: PCT/JP03/04750 :  
International Filing Date: 15 April 2003 :  
Priority Date: 16 April 2002 :  
Atty Docket No.: 040473 :  
For: RESIST FILM REMOVING :  
APPARATUS ... AND METHOD OF :  
REMOVING ORGANIC MATTER :

DECISION ON PETITION TO  
WITHDRAW HOLDING OF  
ABANDONMENT  
(37 CFR 1.181)

This decision is issued in response to the "Request For Withdrawal Of Holding Of Abandonment" filed 03 April 2008, treated herein under 37 CFR 1.181. No petition fee is required.

**BACKGROUND**

The procedural background for this application was set forth in the previous decisions mailed herein on 27 January 2006 and 31 August 2006. These decisions dismissed without prejudice applicants' petition under 37 CFR 1.47(a) requesting acceptance of the declaration without the signature of all the applicants. The decision mailed 31 August 2006 provided applicants with an extendable two-month response deadline, and it indicated that the failure to file a timely and proper response would result in abandonment of the application.

Applicants did not file a response to the 31 August 2006 decision during the extendable time period. Accordingly, this application became abandoned at midnight on 31 October 2006.

On 07 February 2008, the USPTO mailed a "Notice of Abandonment" confirming the abandonment of the application.

On 03 April 2008, applicants filed the "Request For Withdrawal Of Holding Of Abandonment" considered herein. The submission asserts that the holding of abandonment should be withdrawn because applicants did not receive the petition decision upon which the abandonment is based.

## DISCUSSION

Section 711.03(c)II of the MPEP sets forth the requirements for a grantable petition to demonstrate the failure to receive an Office communication:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact the a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action.

The present submission includes the required statement from the practitioner that the file jacket and docket records of the firm have been searched, and that this search indicates that the petition decision mailed 31 August 2006 was not received.

With respect to the docket records requirement, applicants have provided a copy of counsel's incoming mail log from 31 August 2006 to September 30 2006. However, a mail log of incoming USPTO communications is not sufficient to satisfy the docket records requirement. Rather, as discussed in the MPEP, applicants must provide the full office docket record for all responses due in the USPTO on 31 October 2006, the date on which a response to the petition decision was due.

Based on the above, applicants have not satisfied the requirements for a petition to confirm the failure to receive an Office communication. Accordingly, at the present time it cannot be concluded that the petition decision mailed 31 August 2006 was not received by applicants. Withdrawal of the abandonment is therefore not appropriate at the present time.

Because the application remains abandoned, applicants' supplemental submission with respect to the petition under 37 CFR 1.47(a) has not been considered herein.

## CONCLUSION

Applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice. The application remains abandoned.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181" and must include the required docket records, as discussed above and in the MPEP.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

*nell n*

Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0419